

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v. -

DAVID CARDONA-CARDONA, JEAN-  
CLAUDE OKONGO LANDJI, JIBRIL ADAMU,  
ARGEMIRO ZAPATA-CASTRO,  
SHERVINGTON LOVELL, and  
STEVEN ANTONIOUS,

Defendants.

**ORDER**

(S1) 18 Cr. 601 (PGG)

PAUL G. GARDEPHE, U.S.D.J.:

(S1) Indictment 18 Cr. 601 (PGG) charges (1) narcotics conspiracy on board a U.S. aircraft (Count One); (2) narcotics distribution on board a U.S. aircraft (Count Two); (3) narcotics distribution on board a U.S. aircraft by a U.S. citizen (Count Three); (4) narcoterrorism conspiracy (Count Four); (5) attempted narcoterrorism (Count Five); (6) conspiracy to use and carry firearms, including destructive devices and machine guns, in furtherance of the crimes charged in Counts One through Five (Count Six); and (7) conspiracy to violate the maritime drug enforcement laws (Count Seven). ((S1) Indictment (Dkt. No. 39))

Defendants Antonius, Lovell, and Zapata-Castro are charged in Count Seven, and were presented in this District on November 30, 2018. (See Dkt. Nos. 51, 53, 54) Defendant Cardona-Cardona is charged in Counts One, Two, and Four through Seven, and was presented in this District on January 18, 2019. (Dkt. No. 67) On August 22, 2019, this Court set a trial date of April 14, 2020. (See Aug. 22, 2019 order (Dkt. No. 111))

Defendant Landji is charged in Counts One and Three; Defendant Adamu is charged in Counts One and Two. ((S1) Indictment (Dkt. No. 39)) These defendants were

extradited from Croatia and did not appear in this District until October 17, 2019. (See Dkt. Nos. 151, 154; see also Feb. 18, 2020 Govt. Ltr. (Dkt. No. 227) at 1) There is voluminous discovery regarding these defendants, including search warrants and search warrant applications. Much of this material is in Croatian and has no relevance to the other defendants. Some of this discovery has yet to be produced. (See Landji Ltr. (Dkt. No. 230) at 2-3)

At a February 11, 2020 status conference, counsel for Defendants Cardona-Cardona, Zapata-Castro, and Antonious stated that they will be prepared to proceed to trial on April 14, 2020. (Feb. 11, 2020 Conf. Tr. (Dkt. No. 232) at 6-7) Counsel for Defendant Lovell stated: “I don’t know that April 14 is a good date. I wouldn’t be opposed to having a little bit more time in terms of preparation for trial. . . .” (Id. at 6) Counsel for Defendants Landji and Adamu stated that they would be seeking a severance, and a later trial date. (Id. at 7-8) The Court directed counsel for Lovell, Landji, and Adamu to submit letters concerning the April 14, 2020 trial date. (Feb. 13, 2020 Order (Dkt. No. 222))

#### **LANDJI AND ADAMU’S REQUEST FOR A SEVERANCE**

Defendants Landji and Adamu have provided a compelling basis for severance and a later trial date.

In a February 17, 2020 letter, Landji’s counsel notes that Landji has “been before the Court for nearly a year less than co-defendants Steven Antonius, Shervington Lovell and Argemiro Zapata-Castro, and nine months less than co-defendant David Cardona-Cardona. . . . Thus, the other defendants have had a much longer time to review the discovery, to make motions and prepare for trial.” (Feb. 17, 2020 Ltr. (Dkt. No. 230) at 1) Counsel also notes that Defendants Zapata-Castro, Lovell, and Antonius are charged in an entirely different conspiracy

than Defendants Landji and Adamu. (Id.) Landji also sets forth a variety of issues concerning the discovery relevant to Landji and Adamu:

[Much] of the discovery . . . was only recently produced, and much of [it] is in Croatian. As previously pointed out, Messrs. Landji and Adamu were first presented on October 17, 2019. The first pretrial conference before Your Honor at which they appeared was on October 30, 2019. At that conference, the government said it would make discovery available to them expeditiously. However, by the next pretrial conference on December 11, 2019, neither Mr. Landji nor Mr. Adamu had received any discovery – not even the discovery that had previously been made available to their co-defendants. At the December 11 pretrial conference, the government attributed its delay in producing discovery to the length of time it had taken to obtain and produce evidence from Croatia. Then, when it produced the discovery, it turned out that most of the evidence from Croatia had not been translated into English. Both Mr. Landji and Mr. Adamu were arrested in Croatia. The aircraft owned by Mr. Landji’s company was searched in Croatia, as were his telephone and at least one laptop computer. We do not yet have translated copies of the search warrants and search warrant applications that supported any of those searches. There are reports of the Croatian police relating to those searches that have not been translated. . . . Moreover, there appears to be evidence still in Croatia that may be material to the defense. For example, the aircraft is still in Croatia. The government apparently contends that the flight of the aircraft from Africa to Zagreb was a “black” flight, without signals or a properly executed flight plan. The aircraft’s computer and instruments, and the flight recorder, could be highly relevant to that issue, but Mr. Landji and Mr. Adamu have not yet been given access to those.

(Feb. 17, 2020 Landji Ltr. (Dkt. No. 230) at 2)

As a result of these circumstances, Landji requests a severance, a later trial date, and an extension of time to file pre-trial motions to March 31, 2020. (Id. at 3) Adamu joins Landji’s application. (Feb. 19, 2020 Adamu Ltr. (Dkt. No. 228)) The Government does not oppose Landji and Adamu’s request for a severance. (Feb. 18, 2020 Govt. Ltr. (Dkt. No. 227))

Accordingly, Landji and Adamu’s request for a severance is granted. They will proceed to trial on June 15, 2020. Pretrial filings – motions in limine, requested voir dire, requests to charge – are due on May 1, 2020. Landji and Adamu’s pre-trial motions are due on March 31, 2020.

## **LOVELL’S REQUEST TO ADJOURN THE APRIL 14, 2020 TRIAL DATE**

In seeking an adjournment of the April 14, 2020 trial date, Lovell’s counsel notes that he first “appeared in this matter on April 29, 2019, several months after counsels for similarly situated defendants.” (Feb. 18, 2020 Lovell Ltr. (Dkt. No. 225)) Lovell’s counsel further states – without explanation – that “while we are at the tail end of a complete review, assuming we do not receive any additional discovery from the [G]overnment, starting the trial on April 14, 2020[] does not give me enough time to transition from discovery to trial preparation.” (Id.)

There are compelling reasons for Defendants Cardona-Cardona, Zapata-Castro, Lovell, and Antonius to be tried together on April 14, 2020. All four men are charged in the same maritime drug law enforcement conspiracy. (See (S1) Indictment (Dkt. No. 39), Count Seven) Defendants Antonius, Lovell, and Zapata-Castro have been held in pretrial detention since November 30, 2018. (See Dkt. Nos. 51, 53, 54) Defendant Cardona-Cardona has been held in pretrial detention since January 18, 2019. (Dkt. No. 67)

Acknowledging that Lovell’s counsel appeared in this action several months after counsel for Defendants Antonius and Cardona-Cardona, Lovell’s counsel first appeared on April 29, 2019 – ten months ago. Trial is scheduled for nearly a year after Lovell’s counsel first appeared. Moreover, counsel for Defendants Antonius and Cardona-Cardona are prepared to proceed on April 14, 2020, as is counsel for Defendant Zapata-Castro, who appeared six months after Lovell’s counsel first appeared in this action. (See Feb. 11, 2020 Conf. Tr. (Dkt. No. 232) at 5-7) Finally, this Court set the April 14, 2020 trial date on August 22, 2019 – six months ago – and we are still nearly two months away from the trial date.

The Court concludes that Lovell's counsel has not provided an adequate justification for adjourning the April 14, 2020 trial date. Accordingly, Lovell's request to adjourn the April 14, 2020 trial date is denied. Defendants Cardona-Cardona, Zapata-Castro, Lovell, and Antonius will proceed to trial on April 14, 2020. Motions in limine, requested voir dire, and requests to charge are due on March 16, 2020.

Dated: New York, New York  
February 22, 2020

SO ORDERED.

A handwritten signature in black ink, reading "Paul G. Gardephe". The signature is written in a cursive, flowing style. The first letter "P" is large and prominent. The signature is positioned above a horizontal line.

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Paul G. Gardephe  
United States District Judge